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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

JUL 16 1996

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Cellular Priority Access for National Security) WT Docket 96-86
and Emergency Preparedness Telecommunications)

**REPLY COMMENTS OF THE
NATIONAL EMERGENCY NUMBER ASSOCIATION**

The National Emergency Number Association ("NENA") hereby replies to the comments of others in the captioned proceeding. In its own Comments dated June 17, 1996, NENA asked whether making Cellular Priority Access Service ("CPAS") voluntary was consonant with the perceived critical importance and need for uniformity of call prioritization for national security and emergency preparedness ("NSEP") uses of Commercial Mobile Radio Service. ("CMRS")¹ We suggested that cellular carriers be obliged to provide CPAS to customers willing to pay prices allowing fair recovery of carrier costs, to include a reasonable return. Of equal importance, NENA recommended that all calls to 9-1-1 be afforded their own priority transmission, triggered by that dialed number, no lower than Level 5 in the NCS proposed hierarchy.

APCO and the County of Los Angeles support special precedence for 9-1-1 calls, and CTIA urges the Commission to specify the priority for 9-1-1 calls in relation to NSEP uses:

While the CPAS standard is flexible enough to support a priority for both 911 calls and NS/EP needs, the Commission must indicate to both the NCS and the

¹ Petitioner National Communications System ("NCS"), through the Secretary of Defense as its agent, urged that rules initially be applied to cellular service providers choosing to offer call prioritization, since Personal Communications Service ("PCS") and other forms of public radiotelephony are not so prevalent or standardized.

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wireless industry how it intends to balance these potentially conflicting interests.²

Similarly, BellSouth, in questioning both the need and the timing for NSEP call precedence, warns that the general public "should not be prevented from using [cellular phones] to request emergency assistance," and concludes:

Unless 911 calls are included in the CPAS priority scheme, 911 calls could block CPAS calls or *vice versa*. Accordingly, any CPAS rules should take into account and complement the 911 requirements under consideration in CC Docket 94-102.

Three commenters address "cost recovery" (SBMS, 6), "funding mechanism" (GTEM, 6) and "charge for service" (AT&T, 3). SBMS observes that costs of deploying and maintain CPAS are unknown and that "CMRS carriers need to be assured that there will be a cost recovery method." If CPAS were a federal requirement, such assurance might be needed. But if it remains volitional with each carrier, as NCS proposes, then the usual method of commercial dealing would apply, as AT&T recognizes: "Cellular companies would also be able to charge for the service" at rates that are, by statute or by FCC practice, not regulated. In its suggestion for later consideration of a CPAS funding mechanism, GTEM implicitly acknowledges the dichotomies of volitional/mandatory service and discretionary pricing/cost recovery:

[T]he Commission may wish to consider working with NCS and state and local agencies to devise a means of funding CPAS implementation in order *to insure that CMRS providers make the investment necessary to provide CPAS* (emphasis added)

² Comments, 7, footnote omitted. NENA supplied in its Comments, particularly at Attachment B, test results suggesting that 9-1-1 as a Permanent option under the PACA feature description could coexist with Demand option uses at Level 5 without intolerable interference.

The italicized language sounds mandatory, and if CPAS were to become an investment and service obligation, considerations of prescribed cost recovery might come into play.³ As proposed by NCS, however, the offering of CPAS is voluntary and therefore amenable to each carrier's business judgment about whether price will cover costs plus return on investment.

Under either scenario, NENA reiterates its suggestion that a carrier ought not be allowed to refuse to provide CPAS to customers willing to pay for the infrastructure and handset costs of the service.

CONCLUSION

For the reasons discussed above, the Commission should proceed with the rulemaking sought by NCS, and should seek to focus comment on (1) the inclusion of 9-1-1 as a called number Permanent option in the CPAS precedence hierarchy, and (2) the issue of voluntary or mandatory offering of CPAS as this relates to discretionary pricing or regulated cost recovery.

Respectfully submitted,

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By 

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³ As apparently is the case with the Report and Order, adopted June 12th but not yet released, in CC Docket 94-102, where infrastructure investment to enable automatic number identification and location information for wireless callers to 9-1-1 has been mandated by FCC rules, contingent upon "a mechanism in place for the recovery of costs relating to the provision of such services." News release, June 12, 1996, Report No. DC 96-52. [Note: this footnote will be changed if the FCC text comes out before 7/16/96 due date for replies.]

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 1996 a copy of the foregoing
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